

# The Florida Building Commission Report to the 2002 Legislature



## THE FLORIDA BUILDING CODE

*Protecting Florida's Homes & Buildings*

Prepared by the Florida Department of Community Affairs

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# 1. Executive Summary

During the 2001 legislative session, the Florida Legislature directed the Florida Building Commission to provide recommendations on three issues (2001-186, Laws of Florida). Those issues are: (a) the feasibility of developing and adopting a rehabilitation code for existing buildings; (b) the suggested requirement that every elevator in the state be equipped with a single key for access by fire and emergency personnel; and (c) the specific needs of Florida which would warrant amendment of the national model codes that form the core of the Florida Building Code. Additionally, to clarify its authority and to simplify requirements, the Commission recommends minor changes to the building code training program and it reiterates the principle of local enforcement of the Code.

The Commission concludes that development of requirements specific to the rehabilitation of existing buildings is feasible. Chapter 34 of the Code currently addresses existing buildings, and the authority to adopt and amend requirements is currently provided by rulemaking authority in section 553.73, F.S. The Commission plans to conduct an evaluation of the effectiveness of the current Code provisions for all building occupancy categories during the first year of implementation, address necessary changes, and report on the provisions to the Legislature in 2003. The Commission also concludes the Code could have unintended impacts on the rehabilitation of homes for low-income families. Therefore, it will take immediate actions authorized under current law to alleviate potential problems and pursue development of special provisions for the preservation of one- and two-family dwellings on homestead property for the earliest possible implementation.

The Commission recommends provision of universal emergency access to all primary elevators with firefighter service in buildings above three floors, and to elevators that travel a distance of twenty-five feet or greater. Universal access should be achieved by requiring lock boxes that are opened by a universal key and located within five feet of the elevator, in which the elevator key is kept. The State Fire Marshal should be granted authority to interpret, implement, and make specific the requirements for universal access.

Florida-specific needs that warrant amending the national model codes which form the core of the Florida Building Code were examined by the Commission. The purpose of identifying such needs is to establish appropriate limits on both state and local amendments. Representatives from all sectors of the construction industry and local and state government participated in the review and concluded that a list of Florida-specific needs be adopted and maintained by administrative rule rather than by statute. Such a list, adopted by rule, will provide more flexibility in addressing new needs when warranted and, when taken together with the current extensive requirements for justifying the costs of proposed amendments, will provide for cautious and deliberative changes to national model documents.

The Commission identified clarifications and changes to the Building Code Training Program useful to administration of the program. Current statute implies that the Commission has sufficient authority to accredit providers and trainers of building codes courses. However, in similar statutes, agencies' authority is delegated explicitly. The Commission recommends such authority be delegated explicitly for the Building Code Training Program to provide clarity. Further, the Commission recommends eliminating the core course equivalency tests as they have been seen as having little potential use by licensees, as well as being a source of confusion.

The Commission was asked to support the exemption of the Turnpike enterprise from local governments' enforcement of the Code but found no compelling reasons for such exemption. The primary argument in favor of exemption was improved efficiency. However, efficiency without appropriate accountability is counter to the reformed building code system, which places oversight of state construction projects under the jurisdiction of local code officials. Also, an option is available under the new code system for state approval of prototype buildings, which will improve the efficiency of the

agency's construction projects. The Commission recommends that state agencies' construction not be exempt from independent oversight and reiterates support of code enforcement by local jurisdictions.

The challenge of the coming year is to make a successful transition to the new Florida Building Code. The Commission will respond quickly to clarify requirements where issues arise. The Code is a five-volume set of standards applying to all buildings and was developed through more than 100,000 hours of volunteer efforts. There will be glitches, and the Commission has planned a code amendment process to implement corrections and interpretations by January 2003. The Commission will also complete implementing rules for the uniform product approval system, which will take effect October 1, 2003, and begin approving the private sector entities determining products' compliance with the Code. New segments of the information system will be developed to handle the massive listing of products. The Building Code Training Program will expand with the development and accreditation of new courses and the Commission will develop commentary documents to support each part of the Code. In 2002 the Commission moves from program development to program implementation.

## **2. Building Code Refinements**

The 2001 Legislature authorized the Florida Building Commission to amend the 2001 Florida Building Code for the purpose of clarifying construction regulations for state agencies, eliminate conflicts with state law or implement new authorities granted by law, and to implement settlement agreements executed prior to March 1, 2002.

The Florida Building Commission revised Chapter 4, Special Occupancy, of the 2001 Florida Building Code (the Code) extensively in order to clarify the construction regulations for state agencies. Administrative and programmatic requirements, which are not construction related, were removed and the state agencies' construction requirements were made consistent with those of the Code. In addition, new sections were added to include state agencies' requirements for adult day care, assisted living facilities, control of radiation hazards, and mental health programs.

Sections of the Code were revised for consistency with the Florida Fire Prevention Code, as adopted by the State Fire Marshal, in order to eliminate conflicts with state law. A summary of the new authorities granted by law and their means of integration into the 2001 Florida Building Code follows.

### **Summary of New Authorities**

Section 235.212, F. S., states that for a relocatable classroom, the area of operable glazing and the area of exterior doors, together, shall consist of at least five percent of the floor area. Florida Building Code Section 423, State Requirements For Educational Facilities of the Code, was revised to include the new statutory requirements.

Section 399.01, F. S., provides for new specifications for elevators and escalators. Chapter 30, Elevators and Conveying Systems of the Code, was revised for consistency with the new requirements of Section 399.01, F. S.

Section 553.36, F. S., provides the definition for "Factory-Built School Shelter." Section 428, Manufactured Buildings of the Code, was revised to incorporate the new definition for Factory Built School Shelters.

Section 553.73, F. S., mandates that the Florida Building Commission amend the Florida Building Code to provide for uniform implementation of ss. 515.25, F. S., 515.27, F. S., and 515.29, F. S. by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, and door and window exit alarms. Section 424.2, Private Swimming Pools of the Code, was revised to incorporate the requirements of ss. 515, 515.27 and 515.29, F. S.

Section 553.73, F. S., clarifies that an application for a building permit submitted prior to the effective date of the Florida Building Code, is subject to the state minimum building codes. Section 104.1.5 of the Code was revised to incorporate this new clarification.

Section 553.73, F. S., exempts storage sheds, which are not designed for human habitation and have a floor area of 720 square feet or less, from the mandatory wind-borne-debris-impact standards of the Florida Building Code. It also exempts chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida from the requirements of the Florida Building Code. Sections 101.4.2 and 1606.1.4 and 1626.1 were revised to incorporate the exemptions.

Section 553.79, F. S., mandates that the Florida Building Code set standards and criteria to authorize preliminary construction before completion of all building plans review. Section 104.5.4 of the Code was added to allow work to begin prior to the final approval and issuance of the permit, upon approval of the building official.

Section 553.895, F. S., exempts telecommunications spaces, located within telecommunications buildings, from being equipped with an automatic sprinkler system, providing that such spaces are equipped to meet an equivalent fire-prevention standard. Section 903.8.1 of the Code was revised to include this exemption.

The energy code compliance calculations for residential buildings were revised to incorporate new air handler multipliers, which were developed using the computer model study conducted by the Florida Solar Energy Center and agreed upon by all impacted parties, in order to continue implementing rule challenge settlement agreements executed prior to March 1, 2002. The computer model study is referenced in the Settlement Agreement entered under DOAH Case #00-1252RP.

Section 553.77, F. S., expands the authority of the Commission to provide by rule, plans review and approval of prototype buildings owned by public and private entities.

### **3. Education:**

## ***Building Code Training Program & Building Code Information System***

#### **Building Code Training Program**

The 1998 Florida Legislature passed Chapter 98-287 L. O. F., which created Section 553.841, F.S., authorizing the Florida Building Commission to establish the Building Code Training Program to provide core curriculum and advanced training courses for all construction-related licensees on the Florida Building Code. The ultimate purpose of the program is to strengthen industry compliance and government enforcement of the Code through education of all participants in the system (e.g. licensed building department personnel, contractors, design professionals).

The Florida Building Commission has developed six building code core curriculum courses, five technical code comparison courses and one administrative course. The technical courses were designed in an instructor-led format for participation in a classroom setting and the administrative course was designed for both instructor-led and study via the Internet. The education program will also provide continuing education courses in several advanced specialty areas in 2002.

The instructor-led courses were released for use May 30, 2001 and the web-based course has been on-line since June 2001. Licensees may take the course on-line, or search the Building Code Information System, [WWW.FloridaBuilding.org](http://WWW.FloridaBuilding.org), for an approved core course.

The courses are as follows:

- South Florida Building Code vs. Florida Building Code
- Standard Building Code vs. Florida Building Code
- International Plumbing Code vs. Florida Plumbing Code
- International Mechanical Code vs. Florida Mechanical/Energy Code
- Building Fire Safety Core
- Administrative Core

The Department of Community Affairs notified 140,000 architects, engineers, contractors, and building code licensees of the core curriculum requirements and the availability of the courses in May 2001. To date, approximately 8,986 individuals have been trained, totaling 12,871 licenses.

#### **Recommendations**

The Commission identified clarifications and changes to the Building Code Training Program useful to administration of the program. Current statute implies the Commission has sufficient authority to accredit providers and trainers of building codes courses. However, in similar statutes, such authority is delegated explicitly. The Commission recommends such authority be delegated explicitly for the Building Code Training Program as well, to provide clarity.

The Commission also reviewed the requirement that an equivalency test be provided in lieu of the instructor-led or online "core/transition" building code courses.

A survey completed by Florida State University, Center for Professional Development, indicated only one tenth of one percent would consider taking an equivalency/competency exam to fulfill the core requirement. The estimate to prepare tests and upgrade the information system for each of the five core comparison courses is approximately \$350,000. The Commission concluded that mandatory building code training should remain in the law but the cost of an alternative testing option outweighed the advantages and is recommending equivalency tests be eliminated.

### **Building Code Information System**

The Department of Community Affairs (DCA), Codes and Standards section, created the Building Code Information System to implement the new responsibilities, business processes, and automated systems required by the Florida Building Code. The system is a multi-functional database that serves as a "CODE CENTRAL," by providing one access point for code information and administration. The BCIS provides easy access to the general public, local governments, and manufacturers to the Florida Building Code, Manufactured Building Program, Product Approval System, local code amendments, and the interested parties list. Unlike most system development projects that automate existing tasks, the BCIS integrates the development of business processes and web-based business systems to support alternative ways of implementing the Florida Building Code processes.

The first "live" module, featuring Manufactured Buildings, was released in February 2001. The second release in June 2001 featured the Training module, which includes purchase of the core curriculum courses and input of license numbers of individuals who have completed the required core course.

The Building Code Information System has processed the following since its implementation date:

Number of Florida Building Code Books Purchased: 2,965

Number of Manufactured Building Insignias Purchased: 5,239

Number of Licensees Trained: 8,986



## **4. Product Approval Program**

Section 553.842, F.S., establishes the "Product evaluation and approval" program. It tasks the Florida Building Commission with adoption of rules to implement the system, which verifies products' compliance with the Florida Building Code. The system provides: the promotion of innovation and new technologies; processing product approval applications in a timely manner; third-party qualified and accredited testing and laboratory facilities; maintain an easily accessible list of approved products; develop testing criteria; long-term approvals; recall or revocation; and cost effectiveness. Uniform procedures were established for local approval of products using state approved independent entities for evaluation and certification of compliance. An alternative for products to be approved by the Commission for statewide use was also established.

The Commission has been working to integrate existing private sector systems of independent product evaluations into a single coordinated system since 1998. This is the first time such a broad integration has been attempted by any state. In 2001, the Commission presented recommendation to the Legislature for modifying portions of the governing law. The changes went into effect July 2001 and the Commission began rule adoption in August. Multiple rule hearings have been held and additional committee work has been conducted to ensure consensus among all stakeholders and the Commission projects completion of the rule by March 2002. Statute directs full implementation of the program on October 1, 2003.

The proposed Product Approval System will enhance current product approval practices by establishing two levels of government oversight. The Florida Building Commission will regulate the evaluation process, via accreditation and approval of third-party product testing, certification, evaluation, and validation organizations. Code enforcement jurisdictions will then ensure products are used in a manner consistent with their evaluation of code compliance.

### **Work Plan for Remaining Development Tasks**

The Commission and Department of Community Affairs will begin development of an electronic system for receiving product approval applications, and for listing all products approved for statewide use during the first quarter of 2002.

It is anticipated that the Commission will begin receiving applications and approving evaluation entities, certification agencies, testing laboratories, and quality assurance agencies by the first quarter of fiscal year 2003. Statewide approval of products will begin by the second quarter. Mandatory compliance with the new Product Approval System is required by law to begin October 1, 2003.

## 5. *Universal Elevator Key*

### **Legislative Charge**

The 2001 Florida Legislature directed the Commission to “research the issue of requiring all primary elevators in buildings with more than five levels to operate with a universal key, thereby allowing access and operation by emergency personnel.”

### **Identification and Research of Issues**

The Florida Building Commission established an Elevator Emergency Access Ad Hoc Committee to identify and research issues related to the universal key for primary elevators and to draft recommendations. The issues researched included security, implementation costs, standardized key, and lock box issues. Statewide, regional, and local jurisdiction level universal access were also evaluated.

### **Recommendations**

The Florida Building Commission recommends providing universal emergency access to all primary elevators with fire fighters’ service in buildings above three levels or with twenty-five feet in travel distance above the designated level, as defined in ASME A17.1, by requiring lock boxes dedicated to each elevator containing the elevator key as the method of universal emergency access. The Commission suggests the following lock box specifications:

- System components complying with applicable nationally recognized listings or approvals;
- Mounting in the proximity of the firefighter’s phase one emergency recall switch at least five feet, but no more than seven feet above the floor;
- Locked with a one key opening lock which is standardized throughout the state with each firefighter, law enforcement officer, and other rescue or emergency personnel being provided such key;
- Clearly designated “For Emergency Use Only”;
- Containing all keys necessary to unlock and operate each elevator located in the building to include only those keys necessary to operate each elevator.

The Commission further recommends lock boxes be required for new construction as well as in existing buildings. New buildings should be in compliance within six months of implementation of a system with the costs of lock box installation paid by the property owner. Removal of the key(s) located in the lock box by any unauthorized person should be subject to a misdemeanor of the second degree, and punishable as stated in s. 775.082, F. S. or s. 775.083, F. S.

The Department of Insurance, Division of State Fire Marshal, should be granted authority to adopt any rule necessary to interpret, implement, and make specific the provisions of this section. Enforcement of elevator emergency access requirements should be referenced in both Chapters 633 and 553.

## **6. Feasibility of an Existing Buildings Rehabilitation Code**

### **Legislative Charge**

The 2001 Florida Legislature directed the Commission to “research the issue of adopting a rehabilitation code for the state and shall report to the Legislature before the 2002 Regular Session regarding the feasibility of adopting such a code. The commission shall review the rehabilitation codes adopted by other states as part of its research.”

### **Identification and Research of Issues**

The Rehabilitation Code Ad Hoc Committee, appointed by Chairman Rodriguez, was charged with identifying and researching issues critical to the feasibility of developing a rehabilitation code. The committee identified and researched other states’ experience and rehabilitation codes. The states included in the study were Maryland, Rhode Island, New Jersey, and Massachusetts. Other regulatory entities and documents were also included in the research: the U. S. Department of Housing and Urban Development; the International Existing Building Code; Chapter 34, Existing Buildings, of the Florida Building Code; and the Florida Fire Prevention Code.

The committee then identified and considered in the research, other issues involved in the development of a rehabilitation code. Those areas considered included:

- Commercial and residential structures;
- Technical scope of a rehabilitation code;
- Affordable housing;
- Urban blight;
- Aging infrastructure;
- Redevelopment;
- Cost versus benefits;
- Historic preservation;
- Insurance;
- Code enforcement.

The research showed that numerous other states and local jurisdictions have realized the benefits of developing and adopting a rehabilitation code. It was discovered that rehabilitation codes encourage the use and reuse of existing buildings, as well as offset the negative effects of urban blight. Rehabilitation codes promote community redevelopment and promote the rehabilitation of affordable housing.

### **Rationale for Feasibility of Developing a Rehabilitation Code**

The Ad Hoc committee’s rationale for feasibility of developing a rehabilitation code is based on the predictability and proportionality of the alteration projects; defining scopes of work more concisely including renovation, alteration, and reconstruction by levels of alteration, using the percentage of the altered area as criteria. Egress and hazardous levels were also considered. It was determined that low-income housing and urban blight are critical elements in the need for a rehabilitation code. A code should facilitate the ability to rehabilitate existing buildings.

## **Recommendations**

The Florida Building Commission concluded that development of a rehabilitation code is feasible and considers the benefits warrant developing such a code.

The Commission recommends:

That the new Florida Building Code and building rehabilitation related issues be evaluated for one year.

That a summary be provided to the Legislature regarding the effectiveness of appropriate sections of the Florida Building Code and that changes be made as needed based on the evaluation.

That the Legislature endorse the development and implementation of a one and two family dwelling rehabilitation code immediately, separate from a rehabilitation code, in order to preserve and enhance homestead properties.

That it investigate rehabilitation thresholds and compare the Florida Building Code to the International Residential Code and other appropriate model codes as part of the evaluation and development of a rehabilitation code.

## ***7. Florida Specific Needs that Warrant Revision of National Codes***

### **Legislative Charge**

The 2001 Florida Legislature directed the Florida Building Commission to evaluate and deliver recommendations regarding specific criteria clarifying the types of needs, specific to Florida that should be considered in justifying amendments to the Florida Building Code.

Senate Bill 336 stated: "The Commission shall research and evaluate the types of specific needs for the state and its localities which are appropriate to justify amendments to the adopted Florida Building Code..."

"...The Commission shall consider needs relating to the state's geographic, climatic, soil, topographic, fire, and other conditions as part of its evaluation..."

Chairman Rodriguez appointed an Ad Hoc Committee of Commissioners to draft recommendations. The committee met with building officials and industry representatives from throughout the state. It concluded that development of a complete list of needs that justify amendment of the base model codes and standards developed for national application would require extraordinary foresight. A list should be established to provide guidance but there needs to be flexibility to modify the guidance where justified.

### **Recommendations**

The consensus recommendations developed by the Committee and stakeholders were unanimously approved by the Commission at the November 2001, Florida Building Commission meeting. The Commission recommends that the following criteria for considering modifications to the Florida Building Code be adopted by administrative rule:

- Geographic
- Climatic
- Soil
- Topographic
- Fire (life safety, Fire protection) -
- Cost effectiveness. (Less expensive alternative).
- New technologies.
- Resolving conflicts with other applicable codes.
- Applicable standards referenced in building code (new and existing).
- Water resource consideration.
- Historic preservation.
- Enforceability
- State policy administered by other state agencies. Agency code change request.
- Applicable requirements mandated by federal law (i.e., access, flood, energy, etc.)
- Resolving conflicts / errors / glitches in the code.
- Rehabilitation - existing buildings interface process.
- Demographic population.
- Special security considerations.
- Technical feasibility.
- Ability to implement administratively.

## **8. Status of Other Tasks & Initiatives**

### **Rules of Procedure Development**

With most of the Florida Building Code development completed by the end of the 2001 Legislative Session, the Florida Building Commission turned its attention to development of procedures to implement the new code. The Commission needed procedures for establishment of and duties for Technical Advisory Committees (TACs), Program Oversight Committees, and Ad Hoc Committees, as well as procedures governing its meeting and voting requirements and amendments to the code. A settlement agreement entered into by the Commission to resolve a rule challenge on initial code adoption, required the Commission to adopt a specific procedure for processing amendments to the code on a yearly cycle, guaranteeing generous public notice prior to consideration by both Technical Advisory Committees and the Commission. Portions of that required procedure were also incorporated into statutes governing the Commission during the 2001 Legislative Session.

The rule adoption process began in July, with recommendations from the Rules of Procedure Ad Hoc Committee, which conducted a rule development workshop and recommended a package of procedural rules governing committee structure, functions, and the local and statewide code amendment processes, as required by the settlement agreement. The Commission voted at the July meeting to propose the following rules of procedure:

- Rule 9B-3.004 on Commission Organization
- Rule 9B-3.050 governing Statewide Amendments to the Code
- Rule 9B-3.051 governing Local Amendments to the Code

The proposed rules were officially noticed following the July meeting and were posted on the Commission's website to provide additional public notice and time for review. A public hearing was held on the proposed rules at the Commission's meeting in August. At that meeting, only one member of the public commented on the rules, and that comment concerned the dates setting the yearly cycle for statewide amendments in Rule 9B-3.050. Responding to that input, the Commission published a Notice of Change to Rule 9B-3.050, deleting the specific dates in the rule in favor of setting a specific date for each yearly cycle, in order to avoid conflict with National Model Code amendment processes. No affected persons commented on the Notice of Change or requested a public hearing. Therefore, the Florida Building Commission voted at its October meeting, to file Rule 9B-3.050, as amended, with the Office of the Secretary of State. All of the Commission's procedural rules are in effect at this time.

### **The Prototype (public and private) Building Plans Review Program**

The Prototype Building Plans Review Program is designed to be a plans review and approval system for structures that will be replicated in Florida. The program will be privatized, using a system administrator to co-ordinate all plans review and other related program activities. The purpose of the program is to streamline the approved plans review process for Building Officials statewide, while ensuring code compliant buildings. The end result is a more time efficient process of plans review, while maintaining quality control of the program by the administrator.

The Florida Building Commission voted to create the statewide prototype plans review system and asked the 2000 Legislature for approval of necessary authority to proceed with the project. The Commission appointed the Manufactured Building/Prototype Ad Hoc Committee to develop recommendations for the program.

The Prototype Program is currently in rule development with rule adoption completion expected by the first quarter of 2002. Following adoption of the rule, the Department of Community Affairs (DCA) will offer a Request For Proposal (RFP) to select an administrator to oversee the Prototype Building Plans Review Program. Program implementation is anticipated in the summer of 2002.

### **Local Government Code Administration**

The 2001 Legislature created a special task force to study and make recommendations for privatization of certain components of building code enforcement. The Commission participates on the task force and has deferred action or further study on this task.

The final task identified by the Commission is to investigate the development of voluntary professional standards for local building departments and personnel. Meetings were held with representatives of the Building Officials Association of Florida, which had begun work on a similar task in the past. Future efforts will be directed toward partnering with the association to develop and market such standards.

### **Fire Prevention Code for Historic Buildings**

The development of the Florida Building Code and the Florida Fire Prevention Code was a joint process. While each code is developed and maintained by separate agencies, Florida law requires the Florida Building Commission and the State Fire Marshal to ensure that the two codes do not have conflicting requirements. During the development of the codes, the Commission and State Fire Marshal combined their respective technical advisory committees to form a joint body which advised each agency. These two codes are coordinated and will now eliminate conflicts between the building officials and the fire officials who enforce them for local jurisdictions.

During the development of the Florida Fire Prevention Code, an interim standard was adopted for historic buildings with the commitment that more comprehensive requirements would be developed in the future. The State Fire Marshal has developed a plan, together with the fire marshals' and building officials' associations, the Department of State, and the Commission, to complete this task. The joint building code and fire code technical advisory committee will work on the special provisions for historic buildings through the next year, to be considered for amendment of the Florida Building Code in 2003.

### **Florida Department of Transportation Turnpike Facility Permitting and Code Enforcement**

The Commission voted unanimously during the December 2001 meeting not to support the Florida Department of Transportation's request to be granted authority to enforce the Florida Building Code in any jurisdiction, acting as their own code enforcement agency.

The law creating the Florida Building Code eliminated state agencies' enforcement of building codes on their own facilities. It delegated enforcement to local jurisdictions. The Commission reviewed possible exceptions to local enforcement during development of the Code and recommended that only state prisons and juvenile detention facilities should be exempt. Typical arguments in favor of exemption were based on efficiencies purported to result from control of both production and code enforcement. The Commission was convinced only by the unique security considerations of the state's correctional facilities.

The Florida Building Code system will create uniformity and consistency that increase efficiency for developers, designers, and contractors conducting business in multiple jurisdictions. The system will also provide new approaches to enforcement including the prototype buildings program and private inspection options that improve efficiency of construction throughout the state while maintaining adherence to the principle of accountability through third party inspection. The Commission considers compromise of this principle unwarranted and ill-advised.